

South Australia Land and Valuation Division Supplementary Rules 2014

The Land and Valuation Division Supplementary Rules 2014, dated 1st September 2014 that came into operation on 1st October 2014 (*Government Gazette* 11 September 2014, p. 4391) have been varied by Supreme Court rules dated:

		<i>Gazette</i>	<i>Date of operation</i>
#1	25 September 2015	15 October 2015, p. 4603	1 December 2015

By virtue and in pursuance of Section 62H of the *Supreme Court Act 1935* and all other enabling powers, We, The Judges of the Land and Valuation Court being a division of the Supreme Court of South Australia, make the following Land and Valuation Division Supplementary Rules 2014.

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Chapter 1—Preliminary

Part 1—Formal provisions

1—Citation

- (1) These Supplementary Rules may be cited as the *Land and Valuation Division Supplementary Rules 2014*.
- (2) These Supplementary Rules supplement the *Land and Valuation Division Rules 2014*.
- (3) These Supplementary Rules follow the Chapter, Part and Division headings of the *Land and Valuation Division Rules 2014*.

2—Commencement

These Supplementary Rules commence on 1 October 2014.

Part 2—Objects

3—Objects

The objects of these Supplementary Rules are to—

- (a) regulate civil proceedings in the Court;
- (b) supplement the Rules;
- (c) prescribe approved forms.

Part 3—Interpretation

4—Interpretation

- (1) Unless the contrary intention appears, a term defined in the *Land and Valuation Division Rules 2014* has the meaning defined by those Rules.
- (2) In these Supplementary Rules, unless the contrary intention appears—
Land and Valuation Division Rules or *the Rules* means the *Land and Valuation Division Rules 2014*.

Part 4—Application of Supplementary Rules

5—Application of Supplementary Rules

- (1) These Supplementary Rules apply to proceedings in the Court.
- (2) Subject to paragraph (3), the *Supreme Court Civil Supplementary Rules 2014* apply to actions in the Court.
- (3) To the extent of any inconsistency between these Supplementary Rules and the *Supreme Court Civil Supplementary Rules 2014*, these Supplementary Rules prevail.

Part 5—Repeal and transitional provisions

6—Repeal and transition

- (1) Unless the Court otherwise directs, these Supplementary Rules apply to—
 - (a) proceedings commenced on or after the commencement date; and
 - (b) steps taken or required to be taken or matters occurring on or after the commencement date in proceedings commenced before the commencement date.
- (2) All practice directions and practice notes issued under the *Land and Valuation Division Rules 1978* are superseded by these Supplementary Rules.
- (3) The Court may give directions about which rule applies to a transitional proceeding or a particular step in a transitional proceeding.

Chapter 2—General procedural rules and allocation of Court business

[no supplementary rules]

Chapter 3—Elements of action at first instance

Part 1—Nature of action

[no supplementary rules]

Part 2—Proceedings in anticipation of action

[no supplementary rules]

Part 3—Commencement of action

Division 1—How action is commenced

6A—Commencement of action

[rule 6A inserted by Land and Valuation Division Supplementary Rules 2014 (Amendment No. 1)]

- (1) Subject to subrule (2), an application must, if a proceeding has not been started in the Court in relation to the acquisition, boundary or lodgment the subject of the application, be made by summons.
- (2) An application may, if a proceeding has been started in the Court in relation to the acquisition, boundary or lodgment the subject of the application, be made by interlocutory application (if by the plaintiff) or counterclaim (if by the defendant) which is to contain the substance of the relevant approved form (LVD 1, 2, 3 or 4) but otherwise be in the form of an interlocutory application or counterclaim prescribed under the General Civil Rules rather than a summons.

Subdivision 1—Acquisition and boundary actions

[sub heading amended by Land and Valuation Division Supplementary Rules 2014 (Amendment No. 1)]

7—Form of summons

- (1) A summons in an acquisition action under rule 13 of the Rules is to be in form LVD1.

[subrule 7(2) amended by Land and Valuation Division Supplementary Rules 2014 (Amendment No. 1)]

- (2) A summons in a boundary action under rule 14 of the Rules is to be in form LVD2.

7A—Affidavit in lieu of pleading

[rule 7A inserted by Land and Valuation Division Supplementary Rules 2014 (Amendment No. 1)]

An application for an order of ejection or payment of rent under section 24(2) of the *Land Acquisition Act 1969* may be supported by an affidavit instead of a statement of claim.

Subdivision 2—Lodgment actions

8—Form of summons

- (1) A summons in a lodgment action being a payment into Court under rule 16 of the Rules is to be in form LVD3.

- (2) A summons in a lodgment action being filing of a compensation agreement under rule 17 of the Rules is to be in form LVD4.

9—Examples of orders of payment out

- (1) An example of payment to claimant—

The Court orders that:

Out of the moneys standing in Court to the credit of this matter in an account entitled “LVD No [no] of [year] — Commissioner of Highways v [name]” Account [A/C no], the sum of [sum] together with all interest accrued thereon to the date of payment out be paid out of Court to the claimant, [name] without prejudice to the right of the claimant to claim such further compensation to which the claimant may be entitled to under the *Land Acquisition Act 1969*.

- (2) An example of payment to the Authority—

The Court orders that—

Out of the moneys standing in Court to the credit of this matter in an account entitled “LVD No [no] of [year] — Commissioner of Highways v [name]” Account [A/C no], the sum of [sum] together with all interest accrued thereon to the date of payment out, be paid out of Court to the Authority c/- the Crown Solicitor.

Subdivision 3—Valuation appeals

10—Notice of appeal

A notice of appeal in a valuation appeal under rule 18 of the Rules is to be in form LVD5.

Chapter 4—Documents and service

Part 1—Documents

Division 1—Approved forms

11—Approved forms

The forms contained in the Schedule to these Supplementary Rules are to be used for the relevant purpose and, when applicable, under the stated rule or supplementary rule.

Division 2—Filing of documents in Court

12—Form of documents for filing in Court

- (1) All documents filed in the Court are to contain—
 - (a) as part of the action heading immediately above the action number the words “Land and Valuation Division”; and
 - (b) an action number in the form “LVD No of 20 .”

Part 2—Service

13—Obligation to give address for service

A defendant or person served with a summons in a lodgment action is not required to file an address for service or defence under rule 59(3) of the General Civil Rules unless and until that defendant or person applies for an order in the action.

Chapter 5—Parties and pleadings

14—Statement of facts, issues and contentions

A Statement of facts, issues and contentions in a valuation appeal under rule 28 of the Rules is to be in form LVD6.

15—Response to statement of facts, issues and contentions

A Response to statement of facts, issues and contentions in a valuation appeal under rule 29 of the Rules is to be in form LVD7.

Chapter 6—Case management

[no supplementary rules]

Chapter 7—Pre-trial procedures

Part 1—Initial steps

[no supplementary rules]

Part 2—Interlocutory steps generally

Division 1—Litigation plan

[no supplementary rules]

Division 2—Directions hearings

16—Directions hearing

- (1) Directions hearings will generally be presided over by a Judge of the Court.
- (2) The purpose of directions hearings is to—
 - (a) ascertain whether the matter can be resolved by settlement;
 - (b) crystallise the issues in dispute; and
 - (c) ensure that the matter proceeds as expeditiously and efficiently as possible to trial.

Chapter 8—Special kinds of action

[no supplementary rules]

Chapter 9—Trial

[no supplementary rules]

Chapter 10—Alternative dispute resolution

[no supplementary rules]

Chapter 11—Judgment

[no supplementary rules]

Chapter 12—Costs

[no supplementary rules]

Chapter 13—Appellate proceedings

[no supplementary rules]

Chapter 14—Contempt of Court

[no supplementary rules]

Chapter 15—Statutory proceedings

[no supplementary rules]

History of Amendment

Rules	Amendments	Date of Operation
am = amended; del = deleted; ins = inserted; ren = renumbered; sub = substituted		
6A	ins am01	1 December 2015
Chapter 3, Part 3, Subdivision 1 heading	am am01	1 December 2015
7(2)	am am01	1 December 2015
7A	ins am01	1 December 2015